

## REMARKS

Claims 1-13 are pending for examination in this application after the Examiner enters the forgoing amendment.

Claims 14-19 were previously withdrawn.

### Correction of Priority

Filed concurrently herewith is a petition to correct the priority claim in this application. The application identifies priority as a continuation-in-part from a series of applications, one of which has since issued into a patent, namely US 6,482,277 which issued on November 19, 2002 from application serial number 09/714,079 which in turn, on its face claims priority as a continuation-in-part from Serial number 09/050,347, which issued into US patent 6,290,731 having a filing date of March 30, 1998.

### Drawing Changes

The drawings have been amended to redact the reference numbers 26, 31, and 43A in accordance with the Examiner's observations specified on page 3 of the Office Action. In addition, Figure 16 has been amended in accordance with the Examiner's observation.

### The Rejections over the Art

The Examiner rejected claims 1-6 and 10-13 under 35 U.S.C. § 102 as being anticipated by Dehdashitan U.S. Patent No. 6,344,056. The Examiner rejected claims 1-5 and 8-13 under 35 U.S.C. § 102 as being anticipated by Dereume et al U.S. Patent No. 5,639,278. The Examiner rejected claims 1-6 and 10-13 under 35 U.S.C. § 102 as being anticipated by Ryan et al, now U.S. Patent No. 6,576,009.

Finally, the Examiner rejected claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Dehdashitan U.S. Patent No. 6,344,056 taken alone.

## Arguments

Assuming the acceptance of the coincidentally filed Petition under 37 C.F.R. §1.78 correction to the priority of the parent application, the Dehdashitan patent, U.S. Patent No. 6,344,056, which has an effective date of December 29, 1999, no longer qualifies as prior art under 35 U.S.C. § 102, and, therefore, is removed as a reference. Consequently, the following comments and arguments are directed to the Ryan et al and Dereume et al patents.

Applicant has amended independent claim 1 to make more apparent differences between the claimed invention and the non-excluded cited patent references. Applicant respectfully submits that the pending claims are not anticipated by either Dereume et al or Ryan et al.

The present invention, as now recited in amended claim 1, requires the presence of a flared proximal section of the extension prosthesis, when expanded, as disclosed and supported in Paragraph 93 of the present specification. The flared section of the extension prosthesis matingly engages and is overlapped by the distal section of the bypass prosthesis (See e.g., Paragraphs 98, 100, 101, 106-107 of the specification.) As such, the overlapping mating engagement forms a fluid tight seal as described in Paragraph 98.

Dependant Claim 2 further recites that the mating engagement is non-abrasive as described in Paragraphs 101-102.

Dependant Claim 3 further recites that the flaring of the extension prosthesis is coextensive with the bypass prosthesis overlap and Claim 4, depending from claim 3 further recites that the length of the overlap ranges between 30-50 mm, as described in Paragraph 100.

Dependant claim 5 recites, as described in Paragraph 100, that the bypass prosthesis is focused inwardly to taper (See also Paragraph 99).

Dependant claims 6, 7, and 9-13 now depending from claim 1, directly or indirectly, recite patentable subject matter over Dereume et al and Ryan et al for the same reasons as set forth herein.

Dependant claim 8 has been amended to depend from claim 2 which itself depends from claim 1 and further recites

Dereume et al describe an expandable bifurcated endoprosthesis for treatment of, for example, aortic aneurysms. The device includes a trunk component 101 and telescopically joined tubular components 108 and 115. Dereume et al actually teach away from the present invention by suggesting that the telescoping components permit slippage between them and the trunk component. (See Col 11 Ln 20). Dereume et al do not teach flaring of the mating section of the tubular components to enhance frictional engagement as is required by the claims of the present invention. Additionally, Dereume et al do not disclose that the tubular components have "proximal, medial, and distal zones, said proximal zone having a first diameter upon expansion and said medial zone having a second diameter upon expansion where said first diameter is greater than said second diameter." Consequently, Dereume et al does not anticipate the invention of claim 1.

The Dereume et al teaching of a slip joint in the telescopic connection between the trunk/pants member and the tubular components is contrary to the limitation of claim 2 which affirmatively recites that the invention provide frictional, non-abrasive engagement with the bypass prosthesis. Therefore, it is fair to conclude that claim 2 recites a different structure with a contrary purpose to that of Dereume et al.

Also, and not insignificantly, claims 3 and 4, that serially recite the length of overlap corresponding to that of the flare and that the length is 30-50mm. In view of the telescopability teaching of Dereume et al, which is contrary to the now claimed invention, clearly, it neither anticipates nor renders the present invention unpatentable.

The final dependant claim addressed specifically herein is amended claim 5. Claim 5 requires that the bypass stent is focused inwardly to taper, a structure that appears to be opposite to the structure illustrated in the Dereume et al illustrations. Presumably in order to accommodate the telescoping capability of the tubular components with the trunk, the trunk in Dereume et al does not possess such tapering.

Turning now to the other reference relied upon by the Examiner, Ryan et al concern a bifurcated prosthesis with a Y-connector (See Col 9 Ins 39-46), preferably displaying an uninterrupted cross-section with cuffed ends. While disclosing a method,

at column 12 ln 53 et seq., of inserting and expanding the cuffed "module" to provide an overlap with the Y-connector, that may be locked, it does not teach flaring of the mating section to enhance frictional engagement as is required by the claims of the present invention. Furthermore, Ryan et al is silent about the particular structure of the "module" and, accordingly, does not describe, disclose or suggest a module with a "proximal, medial, and distal zones, said proximal zone having a first diameter upon expansion and said medial zone having a second diameter upon expansion where said first diameter is greater than said second diameter." Consequently, Ryan et al does not negate patentability of the inventions recited in the claims.


On page 2 of the Office Action, the Examiner rejected claim 5 under 35 U.S.C. § 112, second paragraph. Applicant has amended claim 5 in a manner that obviates the rejection under § 112 notwithstanding the specific support for the word "unattached" in ¶ 105 of the specification.

#### Conclusion

In view of the foregoing, Applicants respectfully solicit favorable consideration of the application as now presented and passage thereof to issue. If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned.

Respectfully submitted,

Date: 10/3/03

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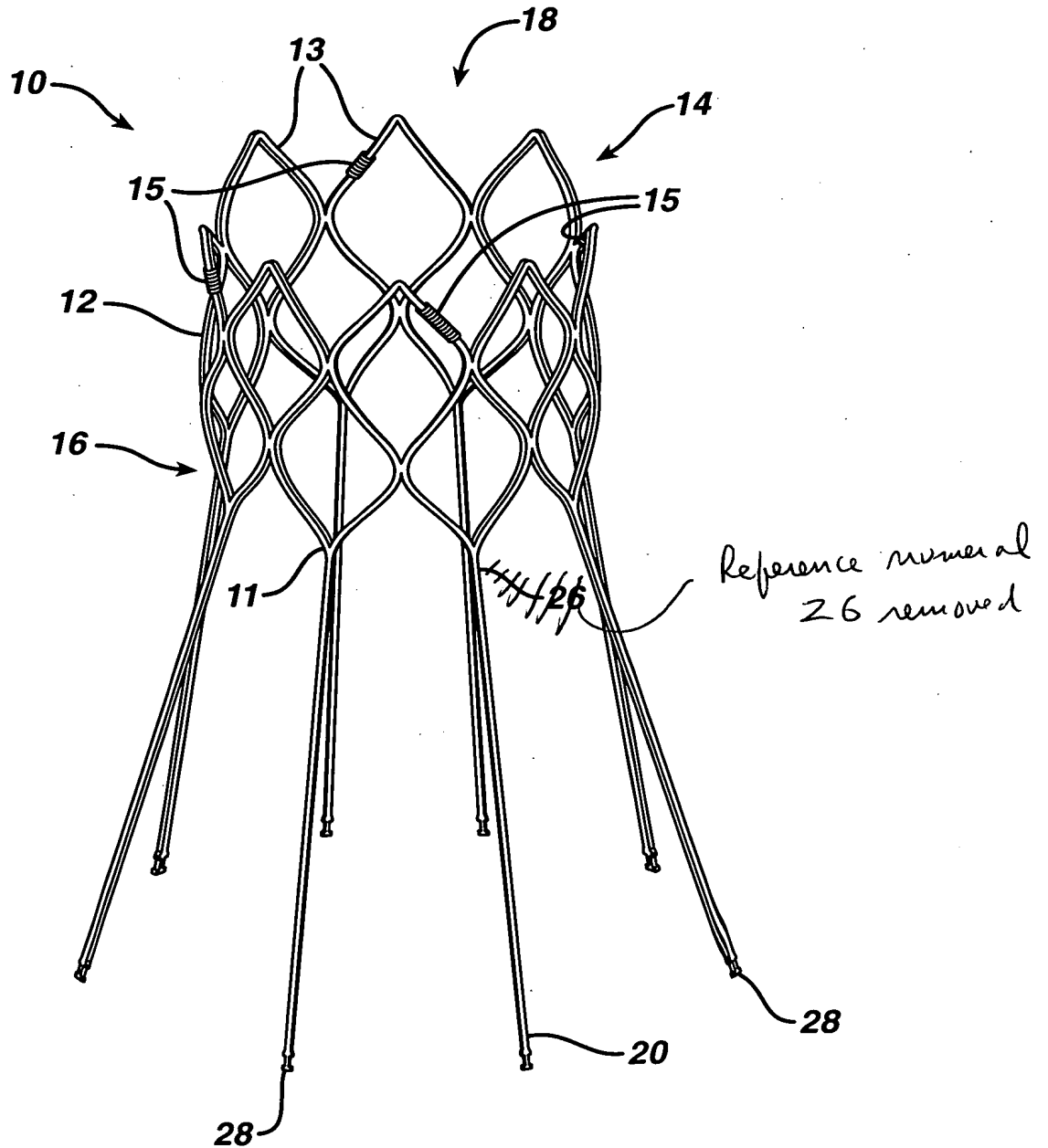
TITLE: Extension Prosthesis for an Arterial Repair  
INVENTOR(S): Butaric, et al.  
APP#: 10/041,124  
ATTY: C. Evens  
DOCKET #: CRD-0903

TEL #: 732-524-2518  
CUST #: 000027777

Annotated Sheet Showing  
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**FIG. 2**





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Reference numeral  
31 removed

**FIG. 3**

